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C O N F I D E N T I A L SECTION 01 OF 03 MANILA 001197

SIPDIS

STATE FOR EAP/MTS

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TAGS: [PGOV](#) [RP](#)

SUBJECT: HOUSE PASSES RESOLUTION PUSHING FOR CONSTITUTIONAL  
REVISION

REF: A. 06 MANILA 4954 (STRIKE TWO FOR CONSTITUTIONAL  
CHANGE)

[1](#)B. 06 MANILA 4502 (STRIKE ONE FOR CONSTITUTIONAL  
CHANGE)

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Classified By: Acting DCM Tom Gibbons, reasons 1.4 (b) and (d).

[1](#)1. (C) SUMMARY: In an unexpected move four days before its summer recess, President Arroyo's supporters in the House of Representatives pushed through a resolution calling for Congress to convene a constituent assembly to propose amendments to the Constitution. The move triggered strong objections from the Senate and opposition members, as well as protests from civil society groups, militant leftist organizations, and the Catholic Church, who fear that any attempt to amend the Constitution will empower incumbent officials -- including President Arroyo -- to extend their time in office beyond the expiration of their terms in May [1](#)2010. The controversial House resolution would enable the pro-administration House majority to pass amendments without Senate concurrence. Opponents of the measure vowed to elevate the issue to the Supreme Court. While top officials have publicly and privately denied that President Arroyo seeks a term extension, the public remains sensitive to major constitutional revisions, even legitimate ones. Asked about prospects for next May's elections, the Ambassador said that the U.S. believed Filipinos would have a successful, democratic election. The Commission on Elections, for its part, remains confident that elections in May 2010 will take place, regardless of how the constitutional assembly issue unfolds. Supreme Court Chief Justice Reynato Puno told Econcouns June 1 that questions surrounding this and other constitutional cases could put the Supreme Court, and thus the Chief Justice himself, at the center of major decisions next year. END SUMMARY.

HOUSE RESOLUTION DEFINES NEW  
RULES FOR CONSTITUTIONAL REVISIONS  
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[1](#)2. (C) As Congress prepared to adjourn this week for a two-month recess, pro-administration lawmakers in the Philippine House of Representatives rushed debate and obtained passage late at night June 2 of House Resolution 1109, which calls for Congress to convene a unicameral "constituent assembly," bringing all members of the House and Senate together in one body to consider amendments to the Constitution. The resolution proposes a simple but controversial clarification of the voting procedures for a constituent assembly described in the 1987 Constitution. Unlike the 1935 Constitution which explicitly requires a three-fourths vote of Congress voting separately in a joint session to approve amendments, the 1987 Constitution requires a three-fourths vote of all the Members of Congress, without

specifying if the two chambers of Congress vote separately or together. Acknowledging complaints from the Senate and the fears of opposition groups and civil society, the signatories of the resolution "pledged" not to postpone elections or extend the terms of incumbent elected officials. Camarines Sur Representative and former KAMPI party president Luis Villafuerte, who originally proposed the resolution but later backed out as sponsor, explained that the measure was intended to trigger a case before the Supreme Court to force clarification of the Constitution's ambiguous phrasing. House Minority Leader Ronaldo Zamora indicated that opponents of the resolution would indeed bring the issue before the Supreme Court. Observers expect the long congressional recess from June 5 to July 26 to give pro-administration and opposition members of Congress ample time to refine their strategies for moving forward.

#### SENATE VOWS TO BLOCK REVISIONS

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13. (C) The House action was met with strong objections from the Senate which, in December 2008, passed a preemptive resolution to little effect, declaring unconstitutional any attempt by the House to convene a constituent assembly without Senate participation. Senate President Juan Ponce Enrile called House Resolution 119 "a joke" and surmised it would likely be ignored, arguing that the issue at the heart of the resolution lay squarely in the domain of Congress itself and could not be resolved by the Supreme Court. However, should the House insist on convening itself into a constituent assembly, Enrile said the House could not on its own enact laws for a nationwide plebiscite on amendments or appropriate the necessary budget. Presidential candidate Senator Richard Gordon said the Constitution could be amended if done correctly at the proper time and for the right

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reasons.

#### MEASURE'S PROPONENTS UNCERTAIN OF PATH

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14. (C) Even proponents of the resolution are in a quandary on whether or not the House can actually convene a constituent assembly without the Senate. For Cebu Representative Pablo Garcia, the resolution was a "mere invitation" for both chambers to convene. House Majority Leader Arthur Defensor maintained that the Senate must also pass a counterpart resolution for the constituent assembly to be considered valid. The actual convening of a constituent assembly is the purview of the House Speaker and co-sponsor of the resolution Prospero Nograles, whose actions will be closely watched when Congress resumes sessions in late July.

#### PUBLIC WARY OF MOTIVES

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15. (C) Surveys have consistently shown the public to be opposed to Constitutional revisions, popularly referred to as "charter change." February polls showed 66 percent of respondents against amending the Constitution if the purpose is to extend the term of the incumbent President and other elected officials. Memories of martial law under former President Ferdinand Marcos increase the public's wariness to grant public officials authority to change the 1987 Constitution. Charter change initiatives during the Ramos and Estrada administrations failed for this reason, and the current attempt will likely face similar resistance, even if proposed amendments have legitimate value. Given this public sentiment, Senator Loren Legarda -- another possible presidential contender -- said the House move was "against the will of the people." Fr. Joaquin Bernas, a member of the 1986 Constitutional Commission, said people should be outraged about how lawmakers are "toying with the Constitution." Archbishop Angel Lagdameo, president of the highly influential Catholic Bishops Conference of the

Philippines, decried the "railroading" of the resolution in the House and hoped the move would not succeed.

PRESS QUERY U.S. OFFICIALS  
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¶6. (C) Media sought U.S. reaction on election developments during the June 1 visit of Defense Secretary Gates, who said the U.S. "assumed the elections will go forward successfully" and that "the Philippines will democratically choose its next leader." On her June 4 visit to U.S.-funded education projects in Zamboanga, the Ambassador told an inquisitive press that the U.S. would not speculate on the outcome of next year's elections or any related constitutional issues, but emphasized the U.S. had confidence that Filipinos would have a successful, democratic election. While the form of their democracy is for Filipinos to decide, the Ambassador added, the U.S. nonetheless hoped that the elections would conform to the nation's laws and result in the strengthening of Philippine democracy.

SENIOR OFFICIALS REACT TO DEVELOPMENTS  
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¶7. (C) Executive Secretary Eduardo Ermita said that the President would support a constituent assembly with Senate participation, while Presidential Management Staff Secretary Hermogenes Esperon told the Ambassador at a private June 3 breakfast that President Arroyo had no intention of extending her term in office, but said that she might consider running for Congress. Deputy Presidential Spokesman Anthony Golez said Malacanang respects the independence of Congress in determining its own priorities, and Presidential Political Adviser Gabriel Claudio doubted there was sufficient time to discuss, propose, and approve changes to the Constitution with the May 2010 elections approaching.

OPPOSITION REACTIONS  
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¶8. (C) Opposition reaction was predictably negative. Bayan, a leftist umbrella organization, decried "the disgusting display of tyranny of numbers in the House" and vowed to intensify protest action against the charter change move. The leftist labor group Kilusang Mayo Uno called the House approval a "scandalous act" and vowed to block charter change, which they fear will open up the country's resources and services to full foreign ownership. Militant overseas workers in Hong Kong branded the House measure as "treachery of the highest order against our country and people."

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ELECTIONS COMMISSION: NO BARRIERS TO 2010 VOTE  
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¶9. (C) Responding to opposition warnings of a no-election scenario next year, Commission on Elections Chairman Jose Melo categorically stated that constituent assembly "cannot be used as a vehicle to postpone elections." Melo stressed that the Commission is currently focused on setting up the system for fully automated elections in 2010 and will not have time to piggyback a national referendum on proposed amendments to the Constitution or a separate vote on delegates to a constitutional convention. Earlier, in a June 1 meeting with Econcouns, Supreme Court Chief Justice Reynato Puno said that the Court expected to see numerous cases on candidates' eligibility to run for office, including the case of former President Joseph Estrada, who is expected to seek clarification on whether the constitutional ban on re-election applies only to consecutive periods or is a lifetime prohibition. Finally, with a twinkle in his eye, Puno speculated that a failed automated election could lead to a total failure of the electoral process if, for example, the votes of portions of the country were not reliably tabulated. In such a case, there would be, according to

Puno, "no President, no House of Representatives, and only a partial Senate. Only the Supreme Court would remain." Puno clearly relishes the high profile role he sees for himself in all these cases.

COMMENT

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¶10. (C) This latest attempt at a constituent assembly marks the third attempt at constitutional revision in two and a half years. An earlier attempt to convene a constituent assembly failed shortly before the 2007 elections amidst strong but largely peaceful and nonviolent public protests. Constitutional change is not viewed lightly by the Philippine public, even given a perception that key elements of the post-Marcos 1987 charter are in need of change, including provisions regarding foreign investment. Despite concerns from opposition members that the President and her supporters are seeking to extend her stay in office, and afford her immunity from prosecution for alleged corruption and other crimes, any efforts to change the Constitution face serious hurdles from the Senate, the Courts, and the public.

KENNEY